

**2. The Commission's Lack Of Authority To Impose A
Damages Remedy Under The Program Access Statute Is
Further Supported By The Fact That The Federal
Trade Commission Statute Has Been Held Not To
Authorize The FTC To Adopt A Damages Remedy.**

The Federal Trade Commission Act ("FTCA") empowers the Federal Trade Commission to eradicate anti-competitive business practices. Section 5 of this Act directs the FTC to prevent "unfair methods of competition" and "unfair or deceptive acts or practices in or affecting commerce."⁴¹ Although the remedial section of the statute allows the FTC to issue an order granting "affirmative relief,"⁴² the FTC and courts have determined that Section 5 does not authorize the FTC to award damages upon a determination of anti-competitive behavior.⁴³ The court in Heater v. FTC reasoned that Congress limited the consequences of a violation of the FTCA to a cease and desist order banning future actions, not punitive remedies.⁴⁴ Moreover, courts have recognized that the FTC can

⁴¹ 15 U.S.C. § 45(a).

⁴² Id. § 45(b).

⁴³ Heater v. FTC, 503 F.2d 321, 323 n. 6 (9th Cir. 1974) ("The Commission concedes that § 5 does not grant it power to order damages.").

⁴⁴ Id. at 323-324. See also id. at 326 ("It is necessary to bear in mind the nature of the proceeding under review. The proceeding is not punitive. The complaint is not made with a view to subjecting the respondents to any form of punishment"); id. ("The act does not expressly confer any general power, of the kind possessed by a court of equity, to compel restitution, or otherwise to so mold the decree as to do substantial justice under the circumstances. Of course, no damages can be awarded, or mandatory order entered." (quoting Henderson, The Federal Trade Commission 71 (1924))).

dictate only certain prospective remedial actions. For example, the FTC can order the divestiture of assets, prohibit the purchase of certain assets, dictate the contents of advertising, and determine the terms of a future contract.⁴⁵

The program access statute empowers the Commission to prevent anti-competitive practices in language that is virtually identical to that contained in Section 5 of the FTCA, i.e., the Commission shall prevent "unfair methods of competition or unfair or deceptive acts or practices."⁴⁶ Moreover, the directive in section 628(e)(1) to adopt "appropriate remedies" is similar to the FTC's charge to order "affirmative relief." Given the similar mandates and language in these sister acts, the determination by the FTC and the courts that Section 5 does not authorize the FTC to award damages strongly supports a similar conclusion with respect to the program access statute.

IV. SECTION 628 DOES NOT COVER SERVICES THAT HAVE NEVER BEEN DISTRIBUTED VIA SATELLITE.

The Commission asks whether it has jurisdiction under Section 628(b) to adjudicate disputes concerning a vertically-integrated programmer which moves its programming from satellite distribution to terrestrial distribution in order to evade the program access requirements.⁴⁷ Regardless of how the Commission decides the

⁴⁵ See id. at 323 (citations omitted).

⁴⁶ Compare 47 U.S.C. § 548(b) with 47 U.S.C. § 45(a).

⁴⁷ See Notice at ¶ 51.

question of its potential evasion authority, it is clear that the Commission has absolutely no authority to impose the program access restrictions on services that have always been distributed via non-satellite means.

Section 628(b) of the Communications Act specifically provides:

It shall be unlawful for a cable operator, a satellite cable programming vendor in which a cable operator has an attributable interest, or a satellite broadcast programming vendor to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming or satellite broadcast programming to subscribers or consumers.⁴⁸

Section 628(i)(1) defines "satellite cable programming" by referencing Section 705(d), which states that:

[T]he term "satellite cable programming" means video programming which is transmitted via satellite and which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers.⁴⁹

Section 628(i)(3) defines "satellite broadcast programming" as:

broadcast video programming when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster.⁵⁰

⁴⁸ 47 U.S.C. § 548(b) (emphasis added).

⁴⁹ 47 U.S.C. § 605(d)(1) (emphasis added).

⁵⁰ 47 U.S.C. § 548(i)(3) (emphasis added).

Thus, the statute is clear on its face. It authorizes the Commission to adjudicate disputes regarding access to programming only if such programming is distributed via satellite.⁵¹ In fact, throughout Section 628 Congress never once failed to use the complete phrase "satellite cable programming" or "satellite broadcast programming" when conferring authority on the Commission and when describing what conduct was to be prohibited. Because the plain language of Section 628 is unambiguous in its narrow jurisdictional focus on satellite-delivered programming, it may not be read to confer jurisdiction over services that have always been distributed via non-satellite means.⁵²

⁵¹ The fact that Congress limited the scope of the program access rules to include only programming delivered by satellite was not inadvertent. At the time of consideration of the 1992 Cable Act, Congress was well aware of alternative distribution methods, such as microwave and fiber optic delivery of video signals, which had been in existence for decades. In fact, Congress knew that several of the most popular cable programming services at one time were distributed terrestrially. For example, HBO and WTBS both testified before Congress that they had initially used terrestrial-based microwave means to distribute their services. See, e.g., Competitive Problems in the Cable Television Industry, 1990: Hearing Before the Subcomm. on Antitrust, Monopolies and Business Rights of the Comm. on the Judiciary, 101st Cong., 1st Sess. 111-13 (Apr. 12, 1990) (statement of Gerald M. Levin, Vice Chairman of Time, Inc.); Cable Television, 1988: Hearings Before the Subcomm. on Telecommunications and Finance of the Comm. on Energy and Commerce of the House of Rep., 100th Cong., 2d Sess. 412-13, 459-461 (Mar. 30 and May 11, 1988) (statements of Ralph M. Baruch, Senior Fellow at Columbia University; R.E. "Ted" Turner, Pres. of Turner Broadcasting System, Inc.).

⁵² See Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 842-43 (1984) ("If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress"); Louisiana Pub. Serv. Comm'n v. FCC, 476 U.S. 355, 374 (1986) ("an agency literally has no power to act ... unless and until Congress confers power upon it" to do so); Railway Labor
(continued ...)

Congress' decision to limit the program access provisions to satellite programming services was consistent with the goals underlying program access. The program access provision had two primary goals. First, the provision was designed to increase competition from non-cable MVPDs. It has done that by making the vast majority of program services available to non-cable MVPDs at non-discriminatory rates. Second, Congress specifically stated that another purpose of Section 628 was to increase program diversity in the MVPD marketplace.⁵³ Stated another way, even with the adoption of the program access statute, Congress meant to

(... continued)

Exec. Ass'n v. National Mediation Board, 29 F.3d 655 (D.C. Cir. 1994) (en banc), cert. denied, 514 U.S. 1032 (1995) (rejecting National Mediation Board's argument that because the statute did not expressly forbid the Board from asserting jurisdiction over a representation dispute in circumstances other than those enumerated in the statute, then it should not be prohibited from doing so); In re Johnson and McLemore v. Liberty State Bank, 39 Bank. Rpt. 478, 481 (Bank. Ct. M.D. Tenn. 1984) ("A statute ... should not be extended or enlarged by implication so as to embrace matters not specifically covered."); Water Transport Ass'n et al. v. ICC et al., 722 F.2d 1025 (2d Cir. 1983) (refusing to expand statutory provision on standing to encompass water carriers where express language of Act conferred standing on limited class).

⁵³ See 47 U.S.C. § 548(a) ("The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market"). The diversity goal of the program access provision is also, of course, consistent with Congress' long-standing objective to "promote the availability to the public of a diversity of views and information through cable television and other video distribution media." 1992 Cable Act, § 2(b)(1). See also id., § 2(a)(6) ("There is a substantial governmental and First Amendment interest in promoting a diversity of views provided through multiple technology media."); 47 U.S.C. § 521(4) ("The purposes of this title are to ... assure that cable communications provide and are encouraged to provide the widest possible diversity of information sources and services to the public.").

preserve and encourage efforts by cable operators and other MVPDs to offer differentiated programming services on their systems. This important congressional objective would have been seriously impeded if all programming were subject to the access requirements of Section 628. Such an all-encompassing statute essentially would have commoditized video programming and thereby significantly diminished the incentive and/or the ability of cable operators and other MVPDs to offer differentiated service choices to consumers. To avoid this result and to encourage diversity, Congress purposefully excluded certain programming -- such as non-vertically integrated programming and non-satellite delivered programming -- from the program access restrictions.

Similarly, extension of program access to non-satellite services could have a particularly harsh impact on locally originated services, and that, in turn, could have a very significant negative impact on diversity. Locally originated services are typically distributed via terrestrial means. Such services have fundamentally different economics than nationally distributed services. Local services, by their nature, are distributed to a relatively small audience and cannot capture the types of revenues available to national services.⁵⁴ Thus, in

⁵⁴ See Closed Captioning Order, 9 Comm. Reg. (P&F) 412, at ¶ 158 (1997) (in exempting certain local origination programming from the closed captioning requirements, the Commission noted that "[m]uch of this programming is produced on a very low budget basis, is not remunerative in itself, is presented essentially as a 'public service,' and has only a one time appeal to a local audience.").

general, production of local services may not be as attractive -- because the potential gains are much smaller -- than production of national, satellite distributed services. Production of local programming may still be attractive, however, as a means for the cable operator to differentiate its product from its competitors. Given the underlying economics, the Commission (and Congress) should be particularly cautious about imposing program access on local programming and thereby removing the potential benefit of differentiation. Doing so could substantially reduce the incentive of cable operators to produce local programming, contrary to well-established congressional and Commission efforts to promote the development of such programming.⁵⁵ Indeed, Congress' limitation of the Commission's program access authority to satellite services may be understood as a refusal to risk a reduction in the investment in, and carriage of, important local programming.

⁵⁵ See, e.g., 1992 Cable Act, § 2(a)(10) ("A primary objective and benefit of our Nation's system of regulation of television broadcasting is the local origination of programming. There is a substantial governmental interest in ensuring its continuation."); Cable Ownership Limits Order, 8 F.C.C.R. 8565, at ¶ 78 (1993) (exemption from cable channel occupancy rules for local and regional services is "an important means of encouraging continued MSO investment in the development of local cable programming, which is responsive to the needs and tastes of local audiences and serves Congress' objectives of promoting localism. Moreover, we recognize that because local and regional programming services are usually costly to produce and appeal only to a limited population of subscribers, such an exception may be necessary to encourage MSOs to continue investing in such local programming.") (footnote omitted).

V. **LIBERTY MEDIA DOES NOT OPPOSE THE ESTABLISHMENT OF REASONABLE DEADLINES FOR THE RESOLUTION OF PROGRAM ACCESS CASES, BUT IT DOES OPPOSE THE SHORTENING OF THE PLEADING CYCLE.**

The Notice seeks comment on Ameritech's proposals to establish time limits for the resolution of program access complaints and to shorten the pleading cycle by 15 days.⁵⁶

Liberty Media does not oppose the establishment of time limits for the resolution of program access cases. Programmers, as well as MVPD complainants, could benefit from the increased certainty resulting from such expedited resolution. At the same time, however, Liberty Media does not share in Ameritech's criticism of the pace of the Commission's current review process. Program access cases often contain multiple complex legal and economic issues which do not lend themselves to quick resolution. Any deadlines which the Commission may establish must account for these potential complexities by allocating sufficient time to analyze them.⁵⁷ Moreover, any such deadlines should be presumptive only, and the Commission should create a mechanism that allows for the extension of a specified deadline in the case of complaints that are particularly complex. For example, the Commission could adopt a rule requiring the Bureau staff to notify the parties within a

⁵⁶ See Notice at ¶¶ 39-40.

⁵⁷ See, e.g., id. at ¶ 39 (Commission noting that "one universally applicable time limit may not sufficiently take into account the myriad circumstances faced by the Commission in resolving program access complaints.").

specified number of days that the applicable deadline will be extended and to inform them of a projected resolution date.

On the other hand, Liberty Media strongly opposes Ameritech's proposal to shorten the program access pleading cycle from 30 to 20 days for answers and from 20 to 15 days for replies.⁵⁸ Liberty Media agrees with the Commission's tentative conclusion that the "benefit" of the 15 days saved by Ameritech's proposal is "outweighed by the need to provide sufficient time for parties to best marshal their arguments and evidence."⁵⁹

The fact that the Commission recently shortened the answer period for common carrier complaints by 10 days does not support a similar decision in this context. As the Commission noted in its Formal Complaint Order, the shortening of the common carrier answer period by 10 days was "necessary" in light of Congress' statements in the 1996 Act about the problems with the common carrier complaint process and the changes required by the Act to further "expedite the resolution of complaints alleging anti-competitive behavior by defendant carriers."⁶⁰ Since Congress in the 1996 Act expressed no similarly negative opinion or directive regarding the program access complaint process (even though it did amend other aspects of Section 628), the underlying basis for such a reduction in pleading cycle time is inapplicable in this context.

⁵⁸ Id. at ¶ 40.

⁵⁹ Id.

⁶⁰ Formal Complaint Order at ¶ 100.

Equally important, the Commission deemed the new 20-day answer period in the common carrier context to be reasonable only because of the considerable notice and issue clarification aspects of the new pre-filing procedures also adopted in the Formal Complaint Order.⁶¹ In fact, the Commission found that as a result of these new pre-filing procedures, "we view the defendants as having far more than twenty days" to answer a common carrier complaint.⁶² By contrast, in program access cases, no such formal pre-filing procedures exist; rather, the complainant need only give the defendant 10 days' informal notice prior to filing a complaint. The Commission is correct to conclude that the foregoing distinctions between the common carrier and program access complaint processes justify retention of the current pleading cycle in program access cases.⁶³

Finally, the Commission previously considered and rejected a 20-day period in which to file an answer in the program access context.⁶⁴ Nothing has changed to alter this prior determination. If anything, the Commission's experience with program access disputes compels the opposite conclusion -- even under the existing pleading cycle deadlines, the Commission has received, and has granted, requests for extensions of time to file program access

⁶¹ Id.

⁶² Id. (emphasis added)

⁶³ See Notice at n. 118.

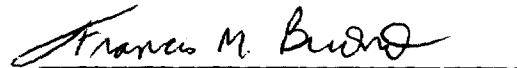
⁶⁴ See Program Access Order at n. 223.

answers and replies in 63% of the program access cases filed to date.⁶⁵ In short, the existing program access pleading cycle is often insufficient to begin with and, therefore, reduction of that cycle certainly is not appropriate.

VI. CONCLUSION

For the foregoing reasons, Liberty Media respectfully urges the Commission to limit any changes to its program access rules to the possible establishment of reasonable deadlines for resolving program access cases, and otherwise to reject the proposals raised in the Notice.

Respectfully submitted,



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February 2, 1998

⁶⁵ See Chart in Exhibit B.

EXHIBIT A

americast

americast's localcast™

- 2 WBRC (FOX-6)
- 3 WCFT (ABC-33/40)
- 4 WBMG (CBS-42)
- 5 WVTM (NBC-13)
- 6 Sneak Preview
- 7 WBIQ (PBS-10)
- 8 WABM (UPN-68)
- 9 WTTO (IND-21)
- 10 Preview Guide
- 11 Inspirational Network
- 12 WTBS-Atlanta
- 13 Gov't Access
- 14 WGN-Chicago
- 15 QVC
- 16 C-Span

premiercast™

- 23 USA Network
- 24 TNT
- 25 Nickelodeon
- 26 Disney Channel
- 27 Cartoon Network
- 28 Lifetime
- 29 Sci-Fi Channel
- 30 E! Entertainment TV
- 31 Discovery Channel
- 32 Comedy Central
- 33 VH1
- 34 MTV
- 35 BET
- 36 TNN
- 37 Headline News
- 38 CNN
- 39 CNBC
- 40 CNNFN
- 41 A&E Network
- 42 Court TV
- 43 The History Channel
- 44 Turner Classic Movies
- 45 AMC
- 46 Family Channel
- 47 Learning Channel
- 48 Weather Channel
- 50 Local Weather

51-53 Reserved

54 SportSouth

55 ESPN

56 ESPN2

premiercast plus™

- 57 ESPNNews
- 58 America's Health Network
- 59 The Golf Channel
- 60 Animal Planet
- 61 Home & Garden TV
- 62 plex-Encore 1
- 63 Country Music TV
- 64 Classic Sports Network
- 65 Reserved

****Pay-Per-View***

- 66 PPV1
- 67 PPV2
- 68 PPV3
- 69 PPV4
- 70 PPV5
- 71 PPV6
- 72 PPV7
- 99 Reserved

****americast advantage™***

- 73 HBO
- 74 HBO2
- 75 HBO3
- 76 HBO Family
- 77 Cinemax
- 78 Cinemax2
- 79 Showtime
- 80 Showtime2
- 81 The Movie Channel
- 82 Flix
- 83 Encore
- 84 STARZ!

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12/96

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● PROGRAMMING
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● A LA CARTE
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● PACKAGES
AT A GLANCE

● CHANNEL
DESCRIPTIONS

● COMPARING
DIRECTV

● CHANNEL
LINEUP

● USER

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PROGRAMMING

PRICING

MOVIES

SPORTS

PRESS

Q&A

SALES

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DSS PRODUCTS

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HOME

DIRECTV® CHANNEL LINEUP - 1/1/98

New channels in red coming on 3/10/98

295	ABCE	ABC-WKRN (Nashville, TN)
296	ABCW	ABC-KOMO (Seattle, WA)
240	A&E	Arts & Entertainment Network
220	AMC	American Movie Classics
289	AHN	America's Health Network
248	ANP	Animal Planet
268	BET	Black Entertainment Television
274	BIT	Bloomberg Television
238	BRVO	Bravo
247	TOON	Cartoon Network
280	EYE	CBS Eye On People
290	WSEE	CBS-WSEE (Erie, PA)
291	CBSW	CBS-KPIX (San Francisco, CA)
283	ERTH	Channel Earth
305	CSN	Classic Sports Network
275	CNBC	CNBC
202	CNN	CNN
281	fn/I	CNNfn/CNN International
263	CMT	Country Music Television
255	COM	Comedy Central
203	CRT	Court TV
271	CSP1	C-SPAN
272	CSP2	C-SPAN2
245	DISC	Discovery Channel
242	DIS1	Disney Channel (East)
243	DIS2	Disney Channel (West)

217	E!	E! Entertainment Television
230	ENCE	ENCORE HITS
231	ENCW	ENCORE HITS WEST
232	LOVE	LOVE STORIES - encore 2
233	WSTN	WESTERNS - encore 3
234	MYST	MYSTERY - encore 4
235	ACTN	ACTION - encore 5
236	TRUE	TRUE STORIES - encore 6
237	WAM!	WAM! - encore 7
206	ESPN	ESPN
207	ESN2	ESPN2 (Channel number changing to 208 on 3/10/98)
208	ESNN	ESPNEWS (Channel number changing to 207 on 3/10/98)
258	FAM	The Family Channel
297	FOX	FOXNET
278	FNC	Fox News Channel
257	GAME	Game Show Network
304	GOLF	The Golf Channel
204	HLN	Headline News
241	HIST	The History Channel
214	H&G	Home & Garden Television
213	HSN	Home Shopping Network
239	IFC	Independent Film Channel
246	TLC	The Learning Channel
252	LIFE	Lifetime
276	MSNB	MSNBC
264	MTV	Music Television (MTV)
265	M2	M2 (MTV #2)
269	MUCH	MuchMusic
262	TNN	The Nashville Network
292	NBCE	NBC-WNBC (New York, NY)
293	NBCW	NBC-KNBC (Los Angeles, CA)
279	NWI	Newsworld International
249	NIK1	Nickelodeon (East)

250	NIK2	Nickelodeon (West)
251	TVLD	Nick at Nite's TV Land
307	OL	Outdoor Life
294	PBS	PBSNET
261	QVC	QVC
222	ROM	Romance Classics
254	SCFI	Sci-Fi Channel
306	SV	Speedvision
225	STZE	STARZ!
227	SZ2E	STARZ!2
226	STZW	STARZ! WEST
228	SZ2W	STARZ!2 WEST
259	TBS	Superstation TBS
256	WGN	Superstation WGN
212	TNT	TNT
286	TBN	Trinity Broadcasting Network
260	TRIO	TRIO
221	TCM	Turner Classic Movies
215	FOOD	TV Food Network
253	USA	USA Network
277	TWC	The Weather Channel
266	VH1	Video Hits -1 (VH1)

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401	ADLT	SPICE
402	PBTv	PLAYBOY TV

MUSIC CHOICE

501 to 531 Music Choice (now with
song I.D.)

REGIONAL SPORTS NETWORKS*

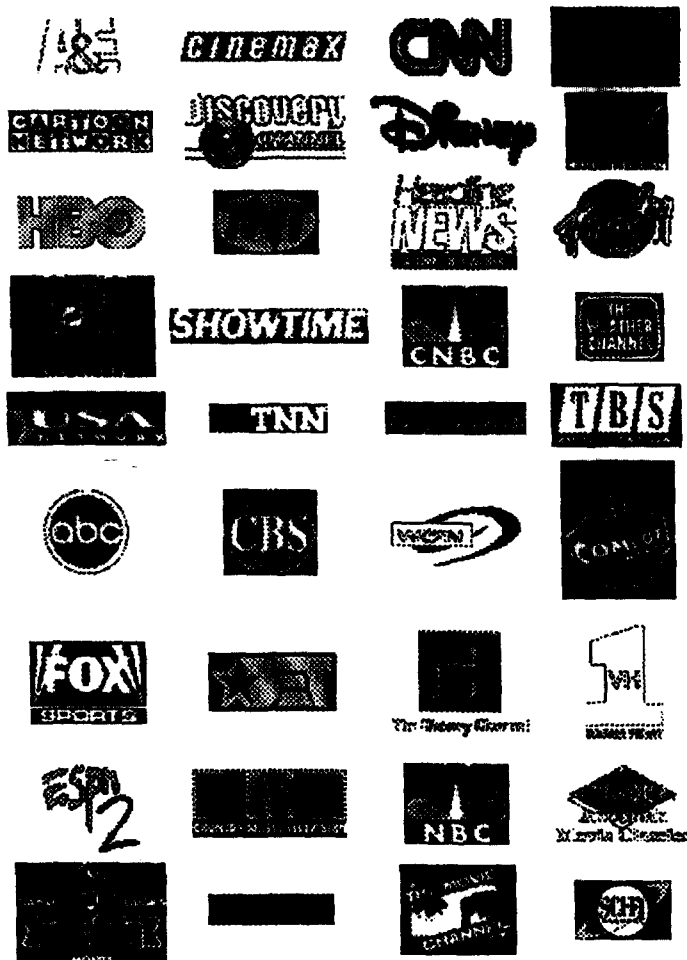
313	EMP	Empire Sports Network
329	FSAZ	FOX Sports Arizona
320	FSD	FOX Sports Detroit
327	FSMW	FOX Sports Midwest
330	FSNW	FOX Sports Northwest
315	FSP	FOX Sports Pittsburgh
326	FSRM	FOX Sports Rocky Mountain
317	FXSS	FOX Sports South
325	FSSW	FOX Sports Southwest
331	FSW	FOX Sports West
332	FSW2	FOX Sports West 2
316	HTS	Home Team Sports
310	MSG	Madison Square Garden
324	MSC	Midwest Sports Channel
311	NESN	New England Sports Network
323	SCC	SPORTSCHANNEL Chicago
322	SCCN	SPORTSCHANNEL Cincinnati
319	SCFL	SPORTSCHANNEL Florida
309	SCNE	SPORTSCHANNEL New England
312	SCNY	SPORTSCHANNEL New York
321	SCOH	SPORTSCHANNEL Ohio
333	SCP	SPORTSCHANNEL Pacific
318	SUN	Sunshine Network

DIRECTV INFORMATION CHANNELS

100, 200, 224	DIRECT TICKET® Previews
101 to 199	DIRECT TICKET Pay Per View Channels
101	DIRECTV Special Events
302, 337, 380	DIRECTV Sports Schedules
218	DIRECTV Access Card Channel
267, 308	DIRECTV Platinum Presents

*Feed dependent on geographic location of subscriber's permanent residence. Local blackout and other restrictions apply to sports programming. To receive sports programming and to order pay per view programming with a remote control, the DSS receiver must be continuously connected to a land-based phone line and a DIRECTV subscription is required. A \$5.00 order assistance fee applies to all phone-in orders. DIRECT TICKET programming requires a DIRECTV subscription. DIRECT TICKET programming is for private viewing only. PrimeTime 24 package only available to subscribers who live in an area where they cannot receive the local networks with a conventional rooftop antenna and have not subscribed to cable television within the last 90 days. Commercial locations require an appropriate license agreement. Some sports programming is available at commercial locations. Commercial signal theft is subject to civil and criminal penalties. Available in the continental U.S. only. Programming, pricing, terms and conditions subject to change. In limited area, programming service may be provided by affiliates of the National Rural Telecommunications Corporation. In these areas, pricing and packaging may differ from that described above. Hardware and programming sold separately. Equipment specifications may vary in Alaska. © 1997 DIRECTV, Inc. DIRECTV and DIRECT TICKET are official trademarks of DIRECTV, Inc., a unit of Hughes Electronics Corp.

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200 Reserved	219 Reserved	238 TV Food Network	257 Reserved
201 Preview Guide	220 Lifetime	239 The Weather Channel	258 The Nashville Network
202 CBS-2 NYC WCBS	221 Reserved	240 Discovery Channel	259 Country Music TV
203 CBS-3 PHILA KYW	222 Sci-Fi Channel	241 Speedvision	260 E! Entertainment
204 NBC-4 NYC WNBC	223 TNT	242 A&E Network	261 The Family Channel
205 FOX-5 NYC WNYW	224 Nickelodeon	243 Inspirational Network	262 TV-62 NJ WRNN
206 ABC-6 PHILA WPVI	225 VH-1	244 CNBC	263 Ovation
207 ABC-7 NYC WABC	226 MTV	245 Reserved	264 Nostalgia Television
208 Reserved	227 USA Network	246 Headline News	265 The Travel Channel
209 CBS-9 NYC WWOR	228 CNN	247 QVC	266 The Cartoon Network
210 NBC-10 PHILA WCAU	229 FOX-29 PHILA WTXF	248 Classic Sports Network	267 Reserved
211 WB-11 NYC WPIX	230 Reserved	249 Reserved	268 The History Channel
212 PBS-12 PHILA WHYY	231 Comedy Central	250 TV Mail	269 Reserved
213 PBS-13 NYC WNET	232 Reserved	251 Reserved	270 Turner Classic Movies
214 Outdoor Life	233 ESPN	252 PBS-52 NJ WNJN	271 Home & Garden TV
215 Reserved	234 ESPN 2	253 Faith & Values Network	272 Game Show Network
216 Reserved	235 C-SPAN	254 Court TV	273 America's Talking
217 WB-17 PHILA WPHL	236 Home Shopping Network	255 Eternal Word TV Net	274 Reserved
218 SuperStation TBS	237 The Learning Channel	256 C-SPAN 2	275 Reserved

Premium Channels

(For pricing information and to order, simply tune to the desired channel.)

276 Reserved	279 The Golf Channel	282 Flix	285 Cinemax
277 Encore Plus	280 Sundance Channel	283 Starz	286 Showtime
278 Encore	281 The Disney Channel	284 The Movie Channel	287 Home Box Office

Movies-On-Demand

(For scheduling information please tune to Channel 288. To order, just select the channel number indicated.)

288 StarNet

289-297 Movies-On-Demand



1	<u>BB/RABC</u>	Bloomberg Information News/Russian American Broadcasting CO.
2	<u>WCBS</u>	CBS
3	<u>TWC</u>	The Weather Channel
4	<u>WNBC</u>	NBC
5	<u>WNYW</u>	FOX
6	<u>HBO</u>	Home Box Office
7	<u>WABC</u>	ABC
8	<u>ESPN</u>	ESPN Sports Network
9	<u>UPN</u>	UPN
10	<u>CNN</u>	Cable News Network
11	<u>WPIX</u>	WPIX
12	<u>TBS</u>	TBS
13	<u>WNET</u>	PBS
14	<u>A&E</u>	Arts & Entertainment
15	<u>USA</u>	USA Network
16	<u>TCM</u>	Turner Classic Movies
17	<u>LIFE</u>	Lifetime
18	<u>DISC</u>	The Discovery Channel
19	<u>CVDN</u>	Cellular Vision Digital Network
20	<u>TNT</u>	Turner Network Television
21	<u>DIS</u>	The Disney Channel
22	<u>NICK</u>	Nickelodeon
23	<u>ENC</u>	Encore
24	<u>ENC+</u>	Encore Plus
25	<u>CNBC</u>	CNBC
26	<u>HN</u>	Headline News
27	<u>CSPAN</u>	Cspan
28	<u>TLC/CMDY</u>	The Learning Channel/Comedy Central
29	<u>BET</u>	Black Entertainment Channel
30	<u>Tele</u>	Telemundo
31	<u>INT</u>	The International Channel
32	<u>PVG</u>	The Prevue Guide
33	<u>FOOD</u>	TV Food Network
34	<u>E!</u>	E! Entertainment
35	<u>SCIFI</u>	Science Fiction Channel
36	<u>MTV</u>	Music Television
37	<u>VH-1</u>	VH-1

38	<u>ESPN2/MSG2</u>	ESPN2/MSG2
39	<u>MSG</u>	Madison Square Garden
40	<u>SHO</u>	Showtime
41	<u>TMC</u>	The Movie Channel
42	<u>MAX</u>	Cinemax
43	<u>STZ!</u>	Starz!
44	<u>FLIX</u>	FLIX
45	<u>SPTSCH</u>	SportsChannel
46	<u>CT/PBY</u>	Court TV/Playboy
47	<u>VC</u>	Viewers Choice
48	<u>HC</u>	Hot Choice
49	<u>MSNBC</u>	MSNBC

EXHIBIT B

PROGRAM ACCESS CASES

AS OF FEBRUARY 2, 1998

No.	Case Name	CSR No.	Type of Case	Time Extension Granted?	Discovery Ordered?	Final Disposition of Case	Other
RESOLVED COMPLAINT CASES							
1	CableAmerica Corporation v. Times Mirror Cable Television, Inc.	4024-P	Refusal to Sell	No	No	SETTLED	
2	Optel, Inc. v. Century Southwest Cable Television, Inc.	4736-P	Refusal to Sell	Yes. 2 weeks	No	SETTLED	
3	British-American Communications, Inc., v. Prime Ticket Network, <i>et al.</i>	4802-P	Refusal to Sell	Yes. 2 weeks	No	SETTLED	
4	Tele-TV Media, L.P. and Pacific Bell Video Services v. Century Communications Corporations and Prime Ticket Networks, L.P.	4822-P	Refusal to Sell	No	No	SETTLED	
5	Optel, Inc. v. American Cablesystems of California	4858-P	Refusal to Sell	Yes. 3 weeks	No	SETTLED	
6	Private Network Cable Systems v. SportsChannel Associates	4233-P	Price Discrimination	No	No	SETTLED	
7	Mid-Atlantic Cable Service Company v. Home Team Sports and Columbia Cable of Virginia	4240-P	Refusal to Sell; Unfair Methods of Competition; Undue Influence; Discrimination	Yes. 4 extensions requested by both sides for a total of 2 months	No	SETTLED	

No.	Case Name	CSR No.	Type of Case	Time Extension Granted?	Discovery Ordered?	Final Disposition of Case	Other
8	Consumer Satellite Systems, Inc. v. Lifetime Television	4246-P	Price Discrimination	Yes.	No	SETTLED	
9-14	Consumer Satellite Systems, Inc., Satellite Receivers, Ltd., Galaxy Satellite Services, Inc., A&L Satellite, Inc., Programmers Clearing House, Inc., American Programming Service, Inc. v. United Video Satellite Group, Inc.	4284-P 4285-P 4296-P 4297-P 4298-P 4299-P	Price Discrimination	Yes. 1 month	No	SETTLED	Consolidated into one complaint
15	National Rural Telecommunications Cooperative v. EMI Communications Corporation	4308-P	Price Discrimination	Yes. 15 days	Yes	SETTLED	
16-18	Interface Communications Group, Inc., Digital Broadband Applications Corp., and Residential Communications Network of Massachusetts, Inc. v. Cablevision Systems Corp., Rainbow Programming Holdings, Inc., and American Movie Classics	4648-P 4695-P 4721-P	Complaint against video dialtone system, asking that the FCC extend the program access rules to such providers	Yes. 5 days	No	SETTLED Initially dismissed as moot because 1996 Act eliminated VDT rules; then settled after complainant filed petition for reconsideration	